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July 29, 2013

Subject of Review

On May 29, 2013, Loudoun County Sheriff's Deputies responded to an emergency 911 call from an employee at Costco Wholesale. The call was in reference to a disorderly employee wielding a knife and scissors and behaving erratically. Deputies responded to the location of the store where the individual was located, which was heavily populated. While attempting to disarm her and take her into custody, she was fatally shot. The deceased was Mhai Scott, a 38 year old Asian female. The following is an overview of the incident and the scope of the items and information reviewed.

Agencies Undertaking the Collection and/or Review of Information

Loudoun County Commonwealth's Attorney's Office
Loudoun County Sheriff's Office
Office of the Chief Medical Examiner, Northern District
Virginia State Police

Items Reviewed

1. Investigative and Supplemental Reports:

Deputy S. Allen	Detective D. Cresswell
Deputy B. Bailey (x2)	Deputy J. Drahos
Detective R. Bennett	Lt. B. Domin
Deputy M. Bressler	Detective N. Ferguson
Lt. Col. R. Buckman	Maj. R. Fiano
Deputy K. Burnham	Deputy K. Foster
Detective M. Bush	Capt. A. Gabrielli
Detective N. Campbell	Detective M. Grimsley
Detective D. Canham	Detective J. Halley (x3)
Detective R. Colantonio	Detective A. Harper

Detective W. Collins	Lt. C. Hines
Deputy A. Cooper	Sgt. K. Holway
Sgt. N. Johnson	Detective C. Perinis
Deputy J. Lockhart	Capt. M. Poland
Detective R. Lunsford	Lt. J. Sanford
Deputy N. Martz	Deputy J.C. Sullivan
Detective M. McCaffrey (x3)	Detective S. Tresselt
Detective T. Mengel	Deputy B. Wacker
Deputy V. Mertz-Myers	Detective C. Willis
Deputy M. Mosely	

2. Audio Recordings:
 - a. 911 Phone call, May 29, 2013 (Time: 6 minutes, 4 seconds)
 - b. Dispatch radio traffic and corresponding notes (Time: 15 minutes, 29 seconds)
 - c. Dispatch radio traffic and corresponding notes (Time: 31 minutes, 49 seconds)
3. Video/Audio Taped Interviews:
 - a. Interview of Deputy K. Foster (Time: 34 minutes, 30 seconds)
 - b. Interview of Deputy J. Hacey (Time: 26 minutes, 35 seconds)
 - c. Interview of Deputy A. Raughley (Time: 28 minutes, 20 seconds)
 - d. Interview of Deputy M. Safford (Time: 24 minutes, 55 seconds)
 - e. Interview of Deputy R. Schmidt (Time: 39 minutes, 45 seconds)
 - f. Interview of D.M. (employee) (Time: 18 minutes, 50 seconds)
4. May 29, 2013 video surveillance footage from in store security camera (CAM 4) at Costco Wholesale, Sterling. This footage does not contain audio.
5. Virginia State Police Leica Data Scan of the Incident Scene and a corresponding presentation of the data and imaging, which was demonstrated on June 12, 2013.
6. The preliminary download data of the TASER deployed on scene.
7. Post incident on-site visual inspection and walkthrough by Commonwealth's Attorney.
8. May 29, 2013 Medical Records from INOVA/Fairfax Hospital regarding treatment for gunshot wound to lower left leg of Deputy M. Safford (15 pages).
9. Property Cards detailing items collected by Crime Scene Investigators and Detectives.
10. Virginia Department of Forensic Science, Request for Laboratory Examination.
11. Loudoun County Sheriff's Office General Order #506 (Subject: Use of Force); Issue Date: November 14, 2012; (17 pages).
12. Progress Notes covering appointments for Mhai Scott with Geriatric Health Care Associates, Inc. (Herndon, VA) from July 2012 through March 2013.
13. Police Records from New Albany Police Department dated (2/28/2012) (New Albany, Ohio) regarding emergency response to Scott home:
 - a. Uniform Incident Report;
 - b. Statement of Facts, Officer K. Hamilton;

- c. Property Record;
- d. Call Sheet;
- e. Audio/Video from cruiser camera (Length: 46 minutes, 43 seconds);
- f. Email/Texts sent from Ms. Mhai Scott;
- g. After Visit Summary notes from The Ohio State University Medical Center.

- 14. Digital photographic images (162) of the incident scene.
- 15. Digital photographic images (136) of the autopsy.

Summary of Incident Facts

At approximately 3:00 p.m., May 29, 2013, Loudoun County Sheriff's Deputies responded to an emergency 911 call from an employee at the Costco Wholesale located at 21398 Price Cascades Plaza in Sterling, Virginia. The call was in reference to a disorderly conduct regarding an Asian female employee wielding a knife and scissors and behaving erratically. Prior to making the emergency call, employees attempted unsuccessfully to address the woman's erratic behavior, which was escalating. Upon arrival, Deputies contained the subject within the aisle where she was located and where other employees had her separated from customers. The aisle was approximately 23 feet in length, 8 ½ feet wide and was bordered by two refrigerator units, which ran the length of the aisle and were approximately 6 ½ feet in height. Support pillars were located at either end of the aisle. The attached diagram and photograph show the specific dimensions and characteristics of the incident scene (Attachments 1 and 2). Upon their arrival, three Deputies (Foster, Raughley and Schmidt) took positions on the east end of the aisle, while two others (Hacay and Safford) took positions at the west end of the aisle.

The subject, Mhai Scott, was a 38 year old Asian female employee of CDS, a company that contracts with Costco to handle food demonstrations and the distribution of sample food items. Ms. Scott was observed by Deputies wielding a large carving knife in one hand and a pair of kitchen scissors in the other (Attachments 3 and 4). The knife was 13 inches in length (5 inch handle, 8 inch blade). Ms. Scott was standing near the center of the aisle. Deputies Hacay and Foster had firearms drawn. Deputies Raughley, Safford and Schmidt had TASERS drawn. Numerous commands were given to Ms. Scott to drop the items she was holding. She did not react or respond to any verbal commands. Deputy Safford announced that he was going to deploy his TASER. Deputy Hacay remained at his side with lethal force. Deputy Foster and Deputy Raughley holstered their firearm and TASER respectively and prepared to place Ms. Scott in handcuffs in anticipation of the TASER effectively subduing her. Deputy Safford attempted to deploy the TASER, but it failed to discharge initially. The TASER deployed on a subsequent attempt and the two prongs struck Ms. Scott from behind in her shoulder area and buttock area. The TASER had no effect on Ms. Scott. She turned her head and looked in the direction of Deputy Safford, then looked back in the direction of Deputies Raughley, Foster and Schmidt. She raised both the knife and scissors and charged at them. Deputies Hacay and Safford moved forward down the aisle in pursuit of Ms. Scott, with Deputy Safford attempting to maintain connection with the TASER prongs. Deputy Raughley, without weapon in hand, retreated while attempting to shift from his cuffs, to a firearm. Deputy Foster, while moving away, transitioned back to his firearm and discharged five rounds, striking Ms. Scott four times. Deputy Safford was struck in the left calf with one of the five rounds. Ms. Scott took a few steps and fell to the floor approximately 19 feet from the east end of the aisle, still clutching the knife and scissors. Deputies rendered aid to both Ms. Scott and Deputy Safford. Ms. Scott was pronounced dead at the scene by Emergency Medical Personnel.

Video Surveillance

Detectives were able to secure video surveillance footage from the Costco security cameras with the assistance of the Costco Loss Prevention Officer. The surveillance does not contain audio. The time displayed on the video footage is consistent with witness statements and emergency dispatch logs. It should be noted that when playing the video at 1x speed, it is actually about 60% of real time speed. When playing the video at 2x speed, it is actually about 150% of real time speed. The only footage from the surveillance cameras that captured a portion of the incident was from CAM 4 located toward the rear of the store.

The camera recorded the half of the aisle where the TASER was deployed by a Sheriff's Deputy, but did not capture the other end of the aisle where Ms. Scott advanced on other Deputies and was shot. No other camera from within the store captured any part of this incident.

On the footage, Ms. Scott can be seen with other employees in the center of the aisle. It is assumed that they were in discussion as described in the witness statements below. She is seen leaving that discussion and going to the display station at the end of the aisle where she obtained the knife and scissors at 2:58:49 p.m. (Attachment 5). She remains at that end of the aisle and can be visibly seen with the knife at 2:59:24 p.m. (Attachment 6). Ms. Scott then walks back toward the employees at 3:00:01 p.m. (Attachment 7) and leaves the view of the camera at 3:00:28 p.m. Another Costco employee is seen blocking off the end of the aisle at 3:03:53 p.m. to keep customers from entering the area and is joined by a second employee at 3:05:05 p.m. (Attachment 8 and 9). At 3:05:10 p.m., Ms. Scott reenters the camera view (Attachment 10). Deputies can be seen approaching the incident scene and taking positions at either end of the aisle (Attachments 11, 12 and 13). With customers and employees removed from the immediate area, a Deputy can be first seen at 3:06:00 p.m. with his TASER aimed at Ms. Scott's back (Attachment 14). At 3:03:09 p.m., the TASER is deployed and Ms. Scott is seen turning around, reacting to the TASER (Attachment 15). One second later, Ms. Scott is seen turning back around and running off the camera view (Attachment 16). Two seconds later, the Deputy that deployed the TASER has advanced down the aisle where Ms. Scott was, positioned with his TASER still in hand in front of him (Attachment 17).

Data Scan

As part of the collection of data from the incident scene, the Virginia State Police used a Leica 360° camera and data scanning station. The camera collects photographic images as well as laser readings to create a 3D graphic display that can be viewed via a personal computer. Scans were taken at five different locations in and around the incident scene and the data merged. Among the various capabilities, is the ability of the user to maneuver throughout the computer generated scene and obtain views from specific locations where witnesses were located. It also contains a measuring tool to determine specific distances between selected locations.

TASER Data

A review of preliminary data downloaded from the TASER (Model X26) deployed at the Sterling Costco incident, reveals that the device was discharged on May 29, 2013 at 3:27 p.m. This incident was the 172nd time the device had been turned on and discharged, which represents both in-service deployments as well as routine "spark" testing. The temperature (29° Celsius) and battery charge (56%) appear to be in the appropriate range for the device to function properly. The duration of the electrical burst lasted only 1 second instead of the typical 5 seconds. It is unclear at this time as to whether or not this was due to human error or equipment malfunction. The device has been sent to TASER® for a more thorough examination. It is noted that the internal clock of the device may be inaccurate as all other reports and surveillance are consistent with a deployment approximately 20 minutes prior than the device data indicates.

Autopsy Data

On May 30, 2013, an autopsy of Ms. Scott was performed at the Medical Examiner's Office by Dr. Shane Chittenden. The autopsy began at 8:20 a.m. and concluded at 3:10 p.m. In accordance with the policy and procedures of the Medical Examiner's Office regarding police involved shootings, and to avoid any potential conflicts of interest, all items collected during the examination that have potential evidentiary value are not turned over to the police agency involved. Several items collected were either submitted to the Department of Forensic Science or the Virginia State Police for further examination.

During the examination, it was observed and photographed, that both prongs of the deployed TASER were imbedded in flesh. One prong was imbedded in the upper right rear arm/shoulder area and the other in the lower right buttocks. Four bullet wounds were also identified and photographed.

A detailed report from the Medical Examiner's Office has not been issued as of this date. These reports typically contain information including, but not limited to: sketches, measurements, toxicology analysis, cause of death, and the results of evidentiary submissions. A verbal consultation was conducted with Dr. Chittenden wherein he indicated that the results of the toxicology screen for Ms. Scott were normal (absent any indication of alcohol or commonly abused drugs). He further indicated that the physical findings were consistent with the facts as he was made aware and that he made no observations during his examination that he considered abnormal.

Firearm Analysis

The firearm discharged during the incident was a LCSO Department issued HK P30 .40 caliber pistol. The pistol, magazine w/bullets, and spent shell casings were sent to the Virginia Department of Forensic Science. A Request for Laboratory Examination (RFLE) was submitted with these items and requests were made for 1) a functionality test of the firearm, and 2) a comparative analysis to determine whether the shell casings came from this firearm. As of the date of this report, no information has been returned from the Department based on those requests. There is no information to suggest that the firearm did not function properly or that the five spent casings were from any other source.

LCSO General Orders

General Order #506 establishes the policy and procedures which govern the use of force by members of the Loudoun County Sheriff's Office. This Order was updated and reissued on November 14, 2012. The general application of this Order mandates the directive that any use of force shall be "only that degree of force which is reasonable and necessary in any given situation."

Varying types of force are defined within this Order, to include: less-lethal, deadly and excessive. The definition of excessive force mirrors the standards outlined by the United States Supreme Court in *Graham v Conner*. The basis of any analysis involves a reasonableness standard in weighing all of the facts and circumstances in any given situation.

Section V, Paragraph 10 of General Order #506 describes the parameters of the use of the TASER Electronic Control Device to include circumstances and situations when it may be an effective tool.

The use of force, both lethal and less-lethal, exhibited by Deputies during the May 29, 2013 incident at Costco, is consistent with the policy and guidelines established in General Order #506.

Summary of Witness Statements

Note: Several additional potential witnesses, beyond what is summarized below, were interviewed or questioned about what they saw or heard. Many are not listed within these summaries that follow, as they were either not in close proximity to the incident, received their information from secondary sources, or their information was consistent and cumulative of other witnesses in similar locations and described below. An "Evacuation Map," or store diagram, was provided and used by several witnesses to reference their specific location in the store when the incident occurred (Attachement 18).

Customers

- a. A.P. (Adult Female) reported being in the back of the store to purchase water with her son. While heading toward the register, they passed the deli area. They noticed the lady that was passing out pizza samples. She was flanked by two Costco employees and a third in front of her. She then saw the pizza lady lunge toward the employee that was in front of her. She appeared to be holding a knife in either hand. The employee in front of the pizza lady stated "What are you doing?" A.P. continued toward the registers. While paying, A.P. noticed three or four Deputies enter the store, check in at the office, and then head toward the back of the store. As A.P. was exiting, she heard what she described as "loud commands" but was unable to hear the specifics. She then heard "three to four pops." Fearing the worst, she exited the store with her son.
- b. S.R. (Adult Female) reported that she was in the Costco at approximately 2:55 p.m. While there, she overheard a male and female employee talking. The male employee was telling the female employee that she needed to go home. Both appeared to be food demonstration vendors. About 10 minutes later, while in the back of the store, S.R. heard someone giving loud commands. She heard things to the effect of "put it down" and "I have a TASER." S.R. looked around and saw 2-3 uniformed Deputies and realized they were giving the commands. S.R. could not see to whom they were talking. Just after the commands, she heard what she thought were three shots, grabbed her purse, and fled the store.
- c. P.E. (Adult Male, age 24) stated that he was next to the meat/cheese aisle. He advised that he did not see or hear anything unusual until he heard someone yelling "drop the knife." He heard this yelled once or twice and then heard a gunshot. He then crouched down and saw two "cops" shooting. He believed he heard two to three shots. After the shots, the woman on the ground was placed in handcuffs and one Deputy was holding his leg. Other Deputies came to assist the injured Deputy. P.E. then went to the front of the store.
- d. C.G. (Adult Male) was shopping with his two children. They were near the water/soda aisle when he heard a male voice counting down "3-2-1." He then heard what he described as a muffled gun shot. He turned to see a Deputy backing up who "seemed like he was shot." C.G. then heard four to five shots and stated that the Deputy that he had seen going backwards, was the one shooting. C.G. took his children and exited the side door and called 911. The time of his call was 3:08 p.m. C.G. detailed his location and exit path on a map of the store that was provided to him.
- e. M.S. (Adult Male, age 54) stated he was shopping near the heating/AC display. He heard someone yell "get down" but did not know the direction from which the voice came. He heard four to five gunshots in quick succession, which he believed to be coming from the right rear area of the store. He did not see the shooting, only people running past him toward the front of the store. He then walked quickly out the front and waited for police to arrive.

- f. S.M. (Adult Female, age 54) is the mother of P.E. (see c. above). P.E. assisted with the interview of his mother due to a language barrier. S.M. reported that while shopping, she was directed by a Costco employee to go back in the other direction from where she came. She then heard gunshots and sought out her son, telling him to “come to me.” They remained near the two big freezers. While going to the front of the store, they saw an Asian female with “blood all over her.” The Deputies were tending to her, she was handcuffed and there was a “big knife next to her.” She saw what she believed was a “cop stabbed in the leg” with others tending to him.
- g. J.G. (Juvenile Male, age 7) was interviewed by a Detective trained in child forensic interviews. J.G. reported that he was in the frozen aisle with his Dad (see d. above) when he heard someone saying “3, 2, 1” in a “very bold big boy voice.” He did not see the person counting down. J.G. stated that he heard “like three gunshots” and his Dad “grabbed for our hands.” J.G., his Dad, and his sister, C.G (see m. below), ran through the store and out a fire exit. As they exited, he saw a lady drop strawberries on the floor (this was noted during a walkthrough of the store). The three ran to their car until police arrived.
- h. S.C. (Adult Female) reported observing a small Asian woman having a conversation with a male “who oversees the food people.” Also present was a Latino female who appeared to be taking the Asian woman’s place. As she passed by, she overheard the male state “you’re not going to be able to save anybody.” While in the process of checking out, she saw Deputies run into the store. When she was getting ready to pay, she heard 5-6 gunshots. She ran from the store when told to evacuate.
- i. D.B. (Adult Female, age 42) was shopping with her husband, T.M. (see l. below). It was noted that English is a second language to D.B. She was in the bakery area when she heard yelling and turned to see two Deputies giving commands to a third person. She heard commands of “stop” and something similar to “stay in your place.” This went on for about one minute, before hearing 4-5 gunshots. She did not see the shooting. She got down on the ground when she heard the shots. When she got up, she saw two people on the ground, one of which was a Deputy.
- j. K.R. (Adult Female, age 58) stated that while shopping, she saw four to six Deputies run past her, one with gun drawn. While she could not see the incident, she could hear the Deputies repeatedly tell someone “don’t move, don’t move, stay where you are, stay right there.” She heard what she “thought was a TASER, then maybe six shots.” She said the first shot (the TASER) just sounded different. She didn’t hear any yelling prior to that. After the shots, she turned to see what happened. K.R. was able to mark her location on a store diagram as well as the location of other people she observed.
- k. T.K. (Adult Male, age 62) was loading water into his cart, he heard shouting. He turned to see a Deputy fire his weapon five times. He saw a knife get kicked away and then saw numerous Deputies begin to arrive on scene.
- l. T.M. (Adult Male, age 42) was shopping in the bakery section. He was about 30 feet from where the incident occurred. He stated that he heard 5-6 shots, grabbed his wife, D.B. (see i. above) and told her to get to the floor. He looked up and saw a Deputy on the ground holding his face and another Deputy helping him. Prior to the shots, T.M. heard yelling. He was unsure of what was specifically said, but knew it was some type of command. He thought it may have been “stop” or something like that.

- m. C.G. (Juvenile Female, age 10) was interviewed by a Detective trained in child forensic interviews. C.G. stated she was shopping with her father and brother (d. and g. above respectively). C.G. stated they were near the water and juice aisle and she just had a sample of popcorn. As they were heading to the meat/poultry section, she heard a loud countdown (3-2-1) and then big bangs. After that, they started running. Before the shots, she heard the fighting, but thought it was a regular argument. She heard a "big voice" yell something like "get down, get down." C.G. heard the shooting, but did not see it.
- n. C.B. (Adult Female) stated that she was in the meat section and saw an officer with a raised arm. She heard gunfire. Before the shots, she heard screaming, which she described as controlled yelling from a male voice. After hearing the shots, she fled the store.
- o. I.F. (Adult Male) contacted the Sheriff's office to advise he was a witness to the Costco incident. He stated that he sampled pizza from a woman. He went back to get a second sample and three Deputies ran past him. He saw them take a stance and then heard shots. He stated that he heard male voices yelling, but did not know what was being said. He did not see the shooting, but heard five shots. He saw one Deputy who had been shot in the leg.
- p. C.V. (Adult Female, age 58) was shopping. She saw a Costco Manager waving towards the Deputies. She heard someone shout "put the knife down" two times, the second shout was louder than the first. She heard the TASER being deployed and she ran. As she was running she heard 5-6 shots. She did not see the person with the knife. She said the second time the Deputies yelled "put the knife down," they were backing up.
- q. C.M. (Adult male) contacted the Sheriff's Office with his observations. He stated that he was in the Costco in the area of the incident. He stated that he saw the woman with the knife and that she looked panicked and her pupils were dilated. She looked to be focused on one employee while others were around her. He did not see the scissors. When the Deputies entered the area, he moved away. He heard the Deputies yell "drop the knife" multiple times. He heard the shots fired. He saw the woman on the ground with the knife still in her hand. The woman was still moving and the Deputies still yelled "drop the knife." He did not witness the shooting.

Employees

- r. R.H. (Adult Female, age 50) is a Front End Manager of Costco and made the initial emergency 911 call. When interviewed, R.H. reported that at approximately 2:40 p.m., P.D. (see x. below), a Supervisor for CDS, approached her and told her that he was having problems with one of the employees, later identified as Ms. Mhai Scott. P.D. indicated to her that Ms. Scott seemed to be having some kind of psychotic episode and was making random statements that were not making sense. He told R.H. that Ms. Scott was complaining about the pizza serving sizes being too small. R.H. offered to assist, but P.D. indicated he would attempt to resolve it himself. Approximately 10-15 minutes later, R.H. heard P.D. yell for her, asking her to "come now, now, now." R.H. responded and observed Ms. Scott in the deli aisle holding a large knife in one hand and a pair of scissors in the other. R.H. heard Ms. Scott mumbling something, but couldn't tell what was being said. Other CDS employees were attempting to contain her and keep customers out of the immediate area. R.H. stated that Ms. Scott had an angry look about her face and at one point heard her say "get back." R.H. called 911 and Deputies arrived in a couple of minutes. R.H. stepped out of the area where she could

no longer see Ms. Scott. She heard the Deputies repeatedly state things to the effect of “drop the knife” and “put the knife down.” After these were repeated numerous times, one of the Deputies deployed a TASER. Once he fired it, she saw “strings” come out of the TASER followed by a “buzzing type” noise. R.H. could only see the Deputy from where she was standing, not Ms. Scott, so she was unsure what happened as a result of the TASER being fired. Almost immediately after, R.H. heard what she described as some type of struggle and then followed by approximately five shots. In fear for her safety, she headed toward the front of the store.

R.H. made the initial emergency 911 call at 2:59 p.m. On the audio recording of the call, R.H. describes “an employee that has a knife in her hand, and she’s not acting rational.” She further describes this employee as being upset over the size of the pizzas at the demonstration, “talking crazy,” “looking really angry,” “grinding her teeth” and refusing to put the scissors or knife down. The Managers/Supervisors were trying to contain the employee and keep her away from the customers. The employee with the knife stated that she was not afraid and told them to “back-off.” The scissors and the knife were being held by her side, pointed down.

- s. D.M. (Adult Male, age 44) was present at the site where the incident occurred and was interviewed by a Detective after the incident. D.M. had been dealing with Ms. Scott for several minutes, along with two other store managers prior to Loudoun Deputies arriving. D.M. was the trainer assigned to Ms. Scott after she had transferred from the Leesburg store. Until that day, he had no issues with her. On this day, Ms. Scott was assigned to handle the pizza cart. D.M. set up his cart with roast beef samples in the deli area near the rear of the store. Ms. Scott’s pizza cart was in the same area. Ms. Scott began work at 11:30 a.m. D.M. was aware of no issues until the early afternoon when Ms. Scott began complaining that the pizza cart oven was not working correctly. D.M. looked at the oven and could find nothing wrong. Ms. Scott then began to complain that the pizza slices should be bigger. D.M. stated that her complaints began to get louder so that customers could hear. She then mumbled something that he could not understand. Ms. Scott went to D.M.’s cart and continued to complain loudly about the pizza. D.M. tried to calm her down as customers were beginning to appear alarmed at her behavior. At this time, an employee went to summon two of the Managers, P.D. (see x. below) and L.Q. (see z. below). At this time, Ms. Scott continued, saying irrational things, such as “How’s this world doing outside?”, “Why does the carpet smell this way?” and “What’s going to happen to my daughters?” During these outbursts, Ms. Scott stepped toward the roast beef cart where she grabbed a carving knife and a pair of scissors. She began to yell irrationally and display the knife. During this time, she would switch her grip on the knife from an overhand position to an underhand while waving it in front of her. The scissors remained in her other hand at her side. D.M. and the two Managers were remaining about 10 feet from her position. The two Managers tried to calm her, telling her to put the knife down. One told her that she needed to close her cart and take the rest of the day off, but she needed to put the knife down first. She refused to put the knife down. When Deputies arrived, they told the employees to move out of the way. D.M. stood by the freezer with another employee, K.H. (see t. below), who had arrived at the scene. D.M. could see a Deputy point his TASER down the aisle where Ms. Scott was located, but he could not see her. The Deputy was giving commands the entire time he observed them, repeatedly commanding her to drop the knife. D.M. then heard the word “TASER,” followed by the Deputy firing the TASER down the aisle toward the location of Ms. Scott. After a few seconds, he heard 4-5 gunshots. He was unsure which Deputy fired. Two Deputies were positioned on the opposite side of the aisle where Ms. Scott was located. Another Deputy came in, but D.M. was primarily focused on the Deputy with the TASER. D.M. estimated the time between the TASER deployment and the gunshots to be about 8 seconds. After the shots were fired he continued to hear Deputies yelling “drop the knife.” D.M. then moved from his

position to look down the aisle where he saw Ms. Scott stumbling, still with the scissors and knife in her hand. She stumbled a few more steps before falling to the floor. While on the floor, she still had the knife and scissors in her hand and it appeared as though she was trying to crawl. The Deputies continued to call for her to release the knife before one approached and kicked the knife from her hand. Having no further questions, D.M. volunteered his opinion that the Deputies handled themselves "perfectly." When asked what he meant by that, D.M. stated that they were constantly telling her to put the knife down. They got the crowd back and waited before firing the TASER or the gun. D.M. stated that he was shocked at Ms. Scott's behavior and was scared. He stated that just before she grabbed the knife, he saw "fire in her eyes, anger like I've never seen before, she had a strange look on her face, it was scary." D.M. believed the Deputies waited as long as they could before they "ended the threat." When D.M. moved closer to see, he stood in the position of the Deputy that deployed the TASER. He could see that Deputy on the floor in "obvious pain." Other Deputies were treating an injury to his leg. D.M. was directed to the front of the store where he and others waited to be interviewed. D.M. reiterated that he was glad when the Deputies arrived because they knew exactly what to do and he was glad to back out of the situation and let them take over. D.M. believed Ms. Scott presented a "major threat" and was afraid of what she might do. While replaying the incident in his mind, D.M. stated that he believed the Deputies had no other choice than to respond as they did.

D.M. was then interviewed a second time by a different Detective on June 2, 2013 at the Loudoun County Sheriff's Office and stated as follows: D.M. was working that day. He knows Ms. Scott. She came to him on the floor complaining that the pizzas were the wrong size, saying that she was supposed to be given singles rather than a big pizza that she was supposed to cut. D.M. could tell that she was "already out of it by that time." Two other workers complained that she was upset about the pizzas and they weren't sure what to do. The supervisor, P.D., pulled her pizza demonstration cart and started to put it away saying that he was going to send Ms. Scott home. D.M. thought that she left or was sent home for the day because of the erratic way that she was acting. About 6-7 minutes later, he saw Ms. Scott in the store. She walked up to his carving cart and, while still complaining about the pizzas, grabbed his carving knife. She grabbed the knife and was "mumbling crazy stuff." D.M. and two other co-workers surrounded her and tried to get her to leave the knife in the carving station and tried to keep the public from coming close, "so that they would not get hurt." They kept trying to get her to put the knife down. They were talking to her for about 10-15 minutes trying to get her to put the knife and the scissors down. She kept the knife and the scissors in her hands. They continued to try to get her to put them down. The manager told someone to call the police. Deputies arrived with weapons drawn. The Deputies told D.M. to get out of the way. D.M. stated "I heard the Deputy tell her to put the knife down. I felt that it was going to be ugly because she had refused for 15 minutes as we begged her, to put the knife down and now she was not listening to the Deputy." "I took cover. I did not want to get hurt." "I heard the Deputy again telling, 'Ma'am, please put the knife down.' I heard him more than once." One Deputy told the other to "tase" her. D.M. saw him shoot her with the TASER. He covered himself. He then heard the shots a few moments later. "I was afraid for my life after the TASER." About three to seven seconds later, he heard the shots fired. He didn't see who shot. After the shots, he looked around the corner. "I saw everybody running and panicking. I was concerned for my coworkers. I peeked and saw the woman walking after the shots had been fired. She was still walking, pretty much stumbling. She fell face up with knife and scissors still in her hands. The Deputies got close to her and asked her to let go of the knife. She still was moving and did not let go of the knife. She then stopped moving and the Deputy kicked the knife out of her hand, turned her over and then handcuffed her from behind." D.M. then took off running. He did not know Ms. Scott to have any issues before this. "I never saw this coming. I have no idea what happened that day."

- t. K.H. (Adult Female, age 41) is employed by Costco as a cashier. K.H. stated that she was on break at 2:50 p.m. During her break she walked to the back of the store and observed an Asian female in a heated exchange with two Managers, P.D. and L.Q. (see x. and z. below). K.H. began speaking with fellow employee, D.M. (see s. above), while the Asian female continued to argue with the Managers for about 10 minutes. K.H. could not hear what was being said, but indicated that P.D. and L.Q. looked angry and/or nervous. The Asian female was holding a knife and scissors in her hands, holding them at her sides in a tense manner. K.H. saw four Deputies approach from the front of the store and direct P.D. and L.Q. to move from the area. They ordered the Asian female several times to “drop the weapon.” At least one Deputy had a TASER drawn and the remaining appeared to have handguns drawn. After several commands, she thought she heard the TASER go off, followed by gunshots. K.H. was afraid and was looking away from the scene although believed to be only a few feet from the Deputy who fired. K.H. was not sure how many shots were fired, but thought it may be as many as twenty. K.H. turned to see the female fall to the ground. One of the Deputies also fell to the ground. The woman was still clutching the knife even after she fell to the ground. K.H. could no longer see the scissors. K.H. and D.M. fled to the front of the store.
- u. L.O. (Adult Female, age 49) works with food service handing out samples. P.D. (see x. below), the Manager, walked to her food service station and stated “Mhai has flipped out.” P.D. then walked to another area. Approximately 5-10 minutes later, Ms. Scott approached L.O.’s station with a box of pizzas. Ms. Scott was upset how the pizzas were packaged and labeled. L.O. stated that Ms. Scott was “not being rational” and she appeared to “look towards the heavens,” stating “Oh God help me...I am so confused.” Ms. Scott then walked to the rear of the store. About five minutes later, several Deputies ran past her to the rear of the store. She could not see where they went, but thought she heard “stop” or “stop that.” After some time passed she heard a “few” shots. Shortly thereafter, she observed a man taking photographs of the area.
- v. V.S. (Adult Female, age 54) is an employee who assists with food demonstrations. She only had a few interactions with Ms. Scott and was not a personal friend. She indicated that she considered Ms. Scott fluent in English. V.S. began work at 11:30 a.m. and relieved Ms. Scott at the pizza station shortly thereafter. At approximately 2:40 p.m., V.S. went to relieve Ms. Scott for her second break. When she arrived, Ms. Scott was in a heated discussion with P.D. (see x. below), a CDS Manager. Ms. Scott was upset about the type and size of the pizza samples being distributed. P.D. told Ms. Scott to take her break, V.S. took control of the station and Ms. Scott walked away. At approximately 2:53 p.m., V.S. was notified that the pizza station was being shut down for the day. The specific times were noted on a log V.S. maintains as part of her duties. V.S. then went to relieve another employee at a different food station. While there, she observed Deputies enter with guns draw and pointed at the ground. They stopped in an area out of V.S.’s view, but she could hear them yell “drop it.” She then heard what she believed was a TASER deployment for few seconds before hearing “3 to 4” gunshots. She is somewhat familiar with police equipment as her husband is a retired police officer. Once she heard the shots, she headed toward the front of the store.
- w. J.H. (Adult Male, age 29) is a Costco employee. J.H. advised he heard a commotion in the back of the store. He arrived to see a female with a large knife in her hand. The Deputies arrived and made a semi-circle around the female. They attempted to “tase” her, but it didn’t work. The female ran at an officer with the knife in her hand, which is when she was shot. J.H. indicated that the female raised the knife in the air in a stabbing motion as she charged the Deputy.

- x. P.D. (Adult Male, age 47) is a Manager. Upon initial contact, he stated that Ms. Scott was experiencing some personal problems with relationships. He noticed that she did not seem herself and had been working with her to take some time off. During the incident, she was referring to another one of the Managers by her husband's name. P.D. was then directed to a staging area for a more complete interview.

Upon additional questioning by a Detective, P.D. stated that he received a "panicky" call from Ms. Scott at approximately 2:00 p.m. stating that she was doing the wrong demonstration. P.D. responded to Ms. Scott's pizza station and spoke with her about her concerns. During the conversation, Ms. Scott became irrational, loud and argumentative. P.D. relieved Ms. Scott of her duties. P.D. then conferred with Assistant Manager, L.Q. about Ms. Scott's behavior. During this conversation, Ms. Scott approached the two with a pizza box. L.Q. attempted to calm Ms. Scott without success and she was directed to go home. P.D. then advised R.H. (see r. above) of the situation. P.D. and L.Q. (see z. below) then responded to speak with D.M. (see s. above). Ms. Scott approached the three and inquired as to which demonstration D.M. was responsible. When he responded that it was the roast beef station, Ms. Scott grabbed a long knife and scissors from his cart and began what P.D. described as a "confrontation and standoff." Ms. Scott began to rant and say irrational things, stating that nobody would take her children away, and that C.S. (ex-husband) was being channeled through L.Q. P.D. stated that when Deputies arrived, they took cover and demanded several times for Ms. Scott to drop the knife. P.D. saw one Deputy deploy the TASER, which appeared to have no effect. Ms. Scott raised the knife and approached the officers and was subsequently shot.

- y. M.A. (Adult Male) is an employee and was operating one of the food distribution carts in the deli area near the incident scene. Ms. Scott approached him shortly after 3:00 p.m. and asked him for a knife, which he did not have. He observed L.Q. (see z. below) approach Ms. Scott and asked her, in a stern voice, what she was doing. M.A. did not hear Ms. Scott's response, but said she sounded exasperated. He then saw Ms. Scott go to D.M.'s cart. At that time, D.M. (see s. above) flagged down a Manager. P.D. and R.H. responded (x. and r. above). He then heard D.M. say "don't do that Mhai." He then saw R.H. flag down Deputies as they were responding and then head down the deli aisle. He heard a loud noise, which could have been a TASER or a firearm. He then left through an emergency exit to his car.

- z. L.Q. (Adult Male, age 21) is an Assistant Manager with CDS. L.Q. was serving candy at a display station when P.D. (see x. above) approached him and stated that Ms. Scott needed to be fired because she was "acting crazy." Ms. Scott then showed up at L.Q.'s station, stating "you're all against me" and complaining about the pizza servings. She then stated that she had to "save her people," and that "god would protect us all." Ms. Scott continued to argue with P.D. and the two tried to calm Ms. Scott. Her tone of voice became aggressive and she continued to repeat "god will protect us." L.Q. began to walk away and attempted to take the pizza box from her hand. Ms. Scott stated "I will follow you to the office and grab a knife. I feel threatened." Ms. Scott went to another demonstration table and asked M.A. (see y. above) for a knife, which he did not have. Ms. Scott then retrieved a knife and scissors from D.M.'s display station. Ms. Scott then stated "I will protect my people, I will fight for my daughter." She then accused them of being controlled by her ex-husband. She further stated, "you always outsmart me, not this time. I am not afraid of you." L.Q. stated that during this, Ms. Scott was shaking the knife and scissors and he became afraid. When the police arrived they yelled at her to "put the knife down." After she did not respond to verbal commands is when she was "tasered." He saw Ms. Scott turn around and wield the knife at the police, whereupon she was shot. After she fell to the ground, she was still trying to attack with the knife. He saw one Deputy kick the knife away from her and noticed another Deputy on the ground in apparent

pain.

When discussing her background, L.Q. stated that the previous month, he had a conversation with her where she was talking “crazy.” She stated “I keep having deprave,” and “It’s all a conspiracy with the number 2.” The prior day, Ms. Scott stated to L.Q. that she was paranoid that he was trying to do something to her and that she sees her ex-husband in him. She stated that she thought her ex-husband was reincarnated in L.Q.

Law Enforcement

- aa. Deputy K. Foster, while still on scene, was asked what happened by Sgt. N. Johnson. He stated that he and Deputy Safford told the Asian woman to drop the weapons, but she did not. Deputy Safford said that he was going to “tase” her. Deputy Foster put his pistol in the holster and began putting on gloves so he could assist with handcuffing the female after she was “tased.” The TASER was deployed, but had no effect. The woman began to charge toward Deputy Raughley. He drew his weapon and discharged it several times toward her until she stopped.

Deputy Foster gave a second, more detailed interview with Detectives M. McCaffrey and S. Petrakos and detailed the events as follows: He received a dispatch to respond to Costco for a “woman acting crazy with a knife.” He spoke to an employee when he arrived and was directed to the back of the store. The store was very crowded. It was so crowded that the Deputies had to “run down the aisle single file to be able to get past the people and the carts.” They took positions surrounding the woman in the aisle. She was holding a large knife with an 8 to 12 inch blade in her right hand and a pair of kitchen shears in her left hand. The blade of the knife was pointed up and the kitchen shears were pointed down. Deputy Schmidt said, “I have TASER, I need lethal.” Deputy Raughley and Deputy Safford had their TASERS pointed at the woman. Deputy Hacey had his gun pointed at the woman. “I had my gun out but holstered it because I thought that one lethal was enough for the situation.” Deputy Foster also holstered his firearm to prepare for cuffing. Deputy Raughley started to holster his TASER and take out his handcuffs because, “we knew that Safford was going to deploy his TASER as he had the best shot as he was behind her.” The woman had her arms at her sides with the weapons in her hands. She had a blank expression on her face. The knife was in her right hand pointed up, the scissors were in her left hand pointed down. She had no response or reaction to the many verbal commands to drop the weapons. She was facing towards Deputy Foster and Deputy Raughley. Deputy Safford and Deputy Raughley and Deputy Foster gave multiple commands to drop the knife without any response or reaction from the woman. Deputy Safford gave one more clear command to drop the knife with no response and then deployed his TASER. Deputy Foster could see that the TASER probe hit the woman. There was no reaction by the woman. Deputy Foster expected to see a reaction similar to what he had seen in the training videos that he had watched. He knew that the TASER had deployed because he saw it and heard the “crackle” from the TASER. The woman turned and looked at Deputy Safford. She did not turn her body, only her head. She then turned back to Deputy Raughley and Deputy Foster. Her hands went from her sides up to either side of her head. She had a weapon in each hand, “Like she was going to attack us.” The woman’s face changed from blank, to angry, and she looked like she was yelling but no sound was coming out. “She moved with purpose” towards Deputies Foster and Raughley, “mostly Deputy Raughley.” Deputy Raughley’s hands were tied up between his handcuffs and his TASER. He was fumbling with both. Deputy Raughley then, “turned his back on the woman and put distance between him and the woman.” At the same time, Deputy Foster went for his gun and again gave the command to drop the knife. “I feared that me or Deputy Raughley or a patron would get stabbed by her.” She had no reaction to the first shot other than turning to look at

Deputy Foster and then kept advancing toward Deputy Raughley. She kept moving toward Deputy Raughley. He does not know how many rounds were fired. The woman, "closed the gap" between her and Deputy Raughley and Deputy Foster. She was "4-5 paces closer to Deputy Raughley and within 10 feet of me when I fired the first shot." Deputy Foster did not know if he had hit woman with a bullet or not because there was no reaction to the gun fire until she stopped and fell. As he was firing, he was moving to his left. Even as she fell, and landed on the ground, she still had both weapons in her hands. "I stopped over her with my gun drawn and pointing at her and could see that she was now no longer a threat so I holstered my weapon and called for rescue for her and for Deputy Safford."

Deputy Foster made notes regarding the incident shortly thereafter to document the occurrence and freely provided those notes to Detectives.

- bb. Deputy M. Safford was interviewed by a Detective on June 3, 2013. He stated that he received a call for a disorderly subject threatening managers with a knife at about 3:00 p.m. "We ran in. There were already two cruisers. Three Deputies in front of me." He ran down the center aisle. He saw Deputy Hacey lined up on the cooler/shelf. Hacey had his gun out. He saw a woman and other Deputies. "I pulled out less lethal. She has knife and scissors in her hands." "She was facing away from me." "I had out my TASER." A Deputy or two gave verbal commands to the woman. Deputy Safford yelled that he had the TASER. "They kept yelling to her to drop the knife." "They gave her several more commands to drop the knife and scissors. She did not comply and ignored them. The knife and the scissors were pointed up. She never dropped them and never pointed them down." He attempted to deploy the TASER. It lit up "5" like it was going to count down but it did not deploy. He turned it off, and then turned it back, and attempted to fire again. It delayed for a little bit and then fired. It hit her back and stuck into her or her clothing. "I heard the TASER made a low clacking sound which told me that it connected into her body. She did not respond at all to being hit. After about 5 seconds, she turned and looked at me with a blank ominous stare." "She bee-lined it towards the other Deputies." The knife and scissors were up and pointed at the Deputies. "Once she started running, she got out of my view pretty quick. She was nearly to the end of the aisle (where they were standing) before they could react." "She turned and ran towards them." "I was thinking that she was going to kill them if I don't do something." "She got within a couple feet from them...they start backing up." She was already out of his view when the shooting occurred. He heard the shots. His leg started to hurt and then he saw the hole in his leg. He walked the rest of the aisle so that the other Deputies could see him. He called on the radio that he was hit. "I saw the woman face up lying on the ground. She was motionless. I was still concerned with her and asked if someone had cuffed her." He did not see her get shot at all. He heard the shots. They were not loud. He has deployed the TASER before. The last time was at the recertification. The whole incident happened in about a minute, maybe less. Deputy Safford made a written statement as well, which was provided to the Detective.
- cc. Deputy J. Hacay was interviewed by a Detective on June 3, 2013. He stated that he was responding to a call regarding someone wielding a knife and scissors at Costco. It was relayed that the person was angry and upset. When he arrived, he ran toward the deli area where the woman was located. He saw her in the aisle. Her arms were deadlocked and she was looking toward the back of the store. She had a large knife in one hand and scissors in the other. He drew his pistol and took aim at her. The civilians in the area backed up. Deputy Foster came around the corner. The woman's back was toward Deputy Hacay. "I gave her at least two commands to drop the knife." There was "no response and no acknowledgment whatsoever." Deputy Safford said that he was going to "tase" her. He tried, but the TASER did not deploy. Deputy Safford squeezed the trigger on the TASER again, and again it did not deploy. It

deployed on the third attempt. "It didn't sound like a normal TASER deployment." "I saw a dart hit her in the upper right shoulder." "She turned around and gave us the look of the Exorcist like you [expletives] I am going to kill you." "Before I knew it, she was gone. She had the knife in her hand and took off in the direction of Raughley and Foster." "She was moving fast. I don't know if it was a run or a fast walk, but she was [expletive] moving. She took off running." Deputy Hacay could not remember if she raised the knife after the TASER hit her or as she was moving fast towards Deputies Raughley and Foster, but it was up or going up. "My initial thought was 'Oh [expletive]'" "Me and Safford started to push forward because we knew that Raughley and Foster were there. I then heard the crack of the first shot and was like, 'oh [expletive].'" He yelled out to watch the cross fire. Deputy Hacay started to back out because he didn't want to get shot. Deputy Safford's face looked as white as the wall and he knew that he was hit so he started tending to him. Deputy Hacay saw the woman lying on the ground and told Deputy Schmidt, who had come over to him, to cuff her. "She still had the knife in her hand and was moving a little bit." "Her arms were out and the knife was still in her hand." Deputy Hacay left Deputy Safford after the EMTs arrived and then went to check on Deputy Foster. "I told him everything was ok, Safford was ok and that he did the right thing." "I knew that something bad was going to happen because she charged the two officers with knife." "I had thought that maybe we were going to be able to talk her out ofpossibly dropping the knife, but after I had given her two commands and she didn't acknowledge me, I said we have a little bit, something more deeper on our hands." "I have never seen somebody, you know, get hit with a sharp object in their shoulder and then just turn around and give you that death look." Deputy Hacay did not take a shot at her because "she took off way too fast" and that "my backdrop....there was people walking around and I didn't want to take the poor guy out making rotisserie chicken."

- dd. Deputy A. Raughley was interviewed by Detectives on June 3, 2013. He stated that he was dispatched for a disorderly conduct regarding a female employee with a knife at Costco. He was the first on scene, Deputy Hacay and Deputy Foster were right behind him. As he entered, he scanned the area, believing the situation was related to something at the food court. He was directed to office and then to the deli area. All three ran in that direction. The store was crowded. When they arrived at the scene, he saw other employees with hands up trying to keep the woman away from customers. He and Deputy Foster positioned themselves at the far end of the aisle, with Deputy Foster to his left. Deputy Foster had his firearm drawn and Deputy Raughley had his TASER drawn. The female employee was facing them. She had a 6-8 inch carving style knife in one hand and a pair of scissors in the other hand. She had a "wide eyed, very intense look on her face." It looked as though she was forcing her eyes open. There was nothing ever said by the woman. He could see her lips mumbling at times, but nothing was ever audible. Deputy Raughley started yelling "drop the knife, police, drop the knife" that's when he noticed Deputy Hacay and Deputy Safford at other end of the aisle. Deputy Hacay had lethal coverage (firearm) and Deputy Safford had TASER coverage. Someone yelled "watch the crossfire." Deputy Foster and Deputy Raughley moved to get coverage behind the display freezer. He heard Deputy Safford yell out "TASER." Deputy Raughley holstered his TASER and transitioned to handcuffs. There was a short delay from when Deputy Safford yelled TASER and when it actually deployed and shot. The TASER looked like it made a connection and she turned her head very quickly. He was watching the knife and saw her tighten her grip. He thought these reactions were her muscles tensing from the TASER. Deputy Raughley came out from his cover position with his handcuffs and was reaching for something to knock the knife from her hands in order to handcuff her. The second he started to move in, she closed in on him, with knife and scissors being raised. He backed away because she got so close. He wasn't getting any distance between them and this is when fear set in for him. She was "within stabbing distance, it might not have been arms-

length, but probably less than a body length” away from him. He was thinking to himself “she’s gonna kill you, shoot her,” but he couldn’t transition from his cuffs to his firearm quickly enough as he was backing up, so he turned and ran. As he was running, he dropped his handcuffs and drew his firearm. That’s when the shots went off. When he went to reengage, he saw the woman still standing and still moving, but not advancing any longer. He had his gun on her, but did not take a shot as there were people in the background. He moved to get a better position. She was not advancing as before, but walking/moving in different directions and he believed she had been hit. She still had the knife and scissors in her hands and he yelled at her “put the knife down.” She took a few more steps and fell down. That is when he heard Safford yell “I’m hit.” He approached the woman with gun drawn to hold her there. She continued to waive/swing the knife while she was on the ground. When she stopped moving, somebody handcuffed her. Foster kept her covered while Deputy Raughley tended to Deputy Safford’s injury. “Foster saved my life, I feel like he kept me from going to the hospital. If he hadn’t taken her down, I would have had to.”

- ee. Deputy R. Schmidt was interviewed by a Detective on June 3, 2013. He stated that he was working a specific assignment with Deputy Safford. During that assignment, they were dispatched to a disorderly conduct regarding an Asian female who was threatening employees with a knife and scissors. When he and Deputy Safford arrived, three other units had just arrived on scene, Deputies Foster, Hacay and a third Deputy. The three Deputies were speaking with employees. They were directed to the deli area and all five ran in that direction. Deputy Foster had his gun out. Deputy Schmidt took out his TASER. He saw the woman holding knife and scissors; she had a tight grip and a “possessed” look on her face. She never said anything to the Deputies. Deputy Schmidt took a position with his TASER by Foster who had a firearm drawn. Deputy Foster was to his left. Schmidt yelled out to “watch the crossfire” as other Deputies were at the other end of the aisle. Multiple commands were given by more than one Deputy to “drop the knife,” “drop the scissors,” “lay on the ground.” She maintained that look throughout the exchange and was unresponsive to the commands. She looked very angry and said nothing. Deputy Schmidt saw a TASER being deployed by one of the Deputies behind the woman. He saw one of the probes strike her upper leg/buttock area. She immediately turned her head back to face the Deputies behind her. She had no reaction to the TASER. She looked back in their direction and ran toward them with the knife and scissors out. Deputy Schmidt backed up to create distance and to transition from his TASER to his firearm. She took 2-3 steps when he heard the shots fired. He heard 3-4 shots in quick succession. He saw the woman go down to the ground. He kicked the knife away, rolled her over and hand cuffed her. At that time he became aware that Deputy Safford was hit. He assisted with treating the woman and Deputy Safford until rescue units arrived.
- ff. Deputy S. Allen stated that he and Deputy Mosely arrived together shortly after shots were fired. They were directed toward the rear of the store and did so with guns drawn as they were unaware if the situation presented an active shooter. When they arrived at the incident scene, Deputies were tending to Ms. Scott and Deputy Safford. Deputy Safford stated that his TASER malfunctioned. Deputy Allen saw the TASER on the ground in a deployed state, but could not tell if the prongs were in the suspect. During this time, Deputy Allen had his on-board audio recording, then turned it off after Deputy Safford was transported for treatment and once Deputies arrived to process the scene. The recording, which is connected to equipment in the cruiser, was inaudible as Deputy Allen got toward the rear of the store due to his distance from the recorder. Deputy Allen observed five casings on the floor. It appeared to him that he suspect was hit three times.

Historical and Background Information

February 28, 2012 Incident

On February 28, 2012, New Albany, Ohio Police Officers were called to the Scott residence after Mr. Scott contacted them regarding some concerning text messages he was receiving from his wife, Ms. Mhai Scott. A sampling of the text messages are as follows:

“Satan is the most powerful and he will win over god,”
“There is no other god than Satan!”
“Do not stop the war!”
“Satan, Satan, do not stop the violence!”
“I command you Satan do the violence now,”
“Don’t save the children”

Upon making entry into the residence, police officers attempted to communicate with Ms. Scott, who locked herself into a room and told them to go away. Officers were able to unlock the door and found Ms. Scott to be behaving irrationally and frantically. She advised that the children were not home, but believing they may in fact be home based on information provided by their father, officers attempted to locate them in the house. Ms. Scott began yelling incoherent statements about Satan and for safety reasons, she was placed in handcuffs. The two children, ages 10 and 7, were located hiding in an upstairs closet. Both appeared upset and scared. Ms. Scott was placed in the back of a cruiser during which time she resisted and continued screaming about Satan. While in the back of the cruiser, Ms. Scott continued to scream and kick for approximately 15-20 minutes. After she calmed, medical personnel transported her to the Ohio State University Hospital for a mental evaluation. Located in the driver’s door pocket of Ms. Scott’s van were two large kitchen knives. Mr. Scott had no explanation as to why she would have those knives in her van.

Medical/Psychological

Ms. Scott was transported via emergency medical personnel to the Ohio State University Hospital on February 28, 2012 after a police encounter at her home in New Albany, Ohio. Ms. Scott presented as disorganized, agitated and confrontational. She reported to treatment providers that she believed someone was trying to steal her identity. This incident was described as a “new onset psychosis” possibly triggered by a recent marital separation and proceedings. She was prescribed Haloperidol, an anti-psychotic, and given a referral to a psychiatrist for outpatient medical management and monitoring. It was recommended that she also consult with a therapist to help address coping skills and manage her feelings.

On July 20, 2012, Ms. Scott began psychiatric treatment after relocating to Northern Virginia. She was seen a total of six times, during which time she was diagnosed with a Generalized Anxiety Disorder and Brief Psychotic Disorder. She was directed to continue with medication. The incident in Ohio was described as a “Psychotic Break.” During the period of her treatment, Ms. Scott was not permitted to have unsupervised visitation with her children until approved by her counselor and psychiatrist. Her last appointment was March 9, 2013, where she reported that she had not taken her medications for the past three months. She was advised to restart her medications. The next scheduled appointment would have been June 6, 2013.

Following the May 29, 2013 incident at Costco, Ms. Scott’s ex-husband was contacted. Upon initial notification of the incident, he provided background information, which included the incident in February 2012 in Ohio resulting in their children being removed from her custody. He has maintained custody of the two children since that time.

Analysis and Conclusion

It should be noted that Ms. Scott's immediate history, while relevant, is not a factor that is directly related to the legal analysis of whether or not the actions taken by the Deputies were reasonable and legally proper. It does, however, provide independent insight as to the likely condition and behavior of Ms. Scott as seen by Deputies on May 29, 2013.

A comprehensive review of the information obtained in the course of this investigation leads to the conclusion that the actions taken by the Sheriff's Deputies were consistent with the departmental policies governing the use of force. Further, the use of lethal force was done in self-defense and in defense of others, including the patrons of the store, as well as the other Deputies on scene. The legal standard through which the Deputies actions are viewed is well defined by both the Supreme Court of the United States and the Supreme Court of the Commonwealth of Virginia. In the case of *Graham v. Connor*, 490, U.S. 386 (1989), the Supreme Court of the United States found that that the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The Court goes on to say that the calculus or reasonableness must embody allowance for the fact that police officers are often forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.

The facts that are most pertinent in reaching this decision are outlined herein. Prior to the arrival of the deputies, employees of the Costco had pleaded unsuccessfully for approximately 10 to 15 minutes with Ms. Scott to release the weapons. At the time of the incident, the Costco was open for business and full of customers actively shopping. Upon arrival at the scene, Loudoun County Sheriff's Office Deputies found Ms. Scott in the center of an aisle wielding both a knife with a blade measuring 8 inches in length and a pair of kitchen scissors. The knife was being held in such a manner that the blade was pointing up while the blades of the scissors were pointed down. Deputies took positions at either end of the aisle with three positioning themselves in front of her and two taking positions behind her. Two Deputies had their service revolvers drawn while three others had their TASERS drawn. Upon seeing that one Deputy had his service revolver drawn, the others holstered theirs. Numerous clearly audible commands were given to Ms. Scott to drop the weapons. She did not respond in any way and continued to hold both weapons in her hands in the manner described above. One of the Deputies positioned behind her announced loudly that he was going to deploy his TASER as Ms. Scott continued to refuse to comply with commands to drop the weapons. The distance between the Deputies on either end of the aisle and Ms. Scott at this point was less than 15 feet. The Deputy deployed his TASER which connected with Ms. Scott's back. At this point, the three Deputies positioned in front of her began to ready themselves to take her into custody by reaching for their handcuffs. Ms. Scott has no visible reaction to being hit with the TASER other than to turn and look back at the Deputy who had deployed his TASER. She then turned back and faced the three Deputies who were positioned in front of her. Her hands went up so that her arms were bent with her hands now level with her head. She still had the knife in one hand and the scissors in the other hand. She then charged at the unarmed Deputies who were in front of her. The Deputies began to back away from her, but were unable to get any distance between them and her because she was advancing quickly. Ms. Scott then turned her attention to one of the Deputies in particular who reported that he believed he was going to be stabbed. He tried to reach for his firearm but his hands became tangled in his handcuffs so he turned and ran. At the same time, the other Deputy went for his firearm and again gave her the command to drop the

knife and the scissors. He reported that he feared that either he or the other Deputy or a patron would get stabbed so he fired. He reported that Ms. Scott was within 10 feet of him and four to five paces closer to the retreating Deputy when he fired the first shot. Ms. Scott had no reaction to the initial shot and continued to advance. He fired again because he was unsure due to her lack of reaction, whether or not he had hit her. She then fell to the ground with both weapons still clutched in her hands.

Killing in self-defense or in defense of others is justifiable homicide when faced with the imminent likelihood of death or serious bodily injury. Further, the use of a deadly weapon is an important factor to consider. Generally, Virginia Courts have defined a deadly weapon as one which is likely to produce death or great bodily injury. However, the manner in which the weapon is used is often more important than its inherent characteristics and capabilities. Floyd v Commonwealth, 191 Va. 674, 62 S.E.2d 6 (1950).

The Deputy's actions constitute a justifiable homicide as the killing was a reasonable use of lethal force and was undertaken in self-defense and in defense of others. As in every situation, the facts are unique, and must be viewed in their totality. The principles governing self-defense and defense of others are well established. Self-defense and defense of others are both affirmative defenses to a charge of murder. "The bare fear of serious bodily injury, or even death, however well-grounded, will not justify the taking of human life." Stoneman v. Commonwealth, 66 Va. 887, 900 (1874). "There must [also] be some overt act indicative of imminent danger at the time." Vlastaris v. Commonwealth, 164 Va. 647, 652, 178 S.E. 775, 776 (1935). See also Yarborough v. Commonwealth, 217 Va. 971, 975, 234 S.E.2d 286, 290 (1977); Mercer v. Commonwealth, 150 Va. 588, 597, 142 S.E. 369, 371 (1928). In other words, a person "must wait until some overt act is done[,] . . . until the danger becomes imminent." Vlastaris, 164 Va. at 652, 178 S.E. at 777. In the context of a self-defense (or defense of others) plea, "imminent danger" is defined as "an immediate, real threat to one's safety . . ." Black's Law Dictionary 399 (7th ed. 1999). "There must be . . . some act menacing present peril . . . [and] the act . . . must be of such a character as to afford a reasonable ground for believing there is a design . . . to do some serious bodily harm, and imminent danger of carrying such design into immediate execution." Byrd v. Commonwealth, 89 Va. 536, 539, 16 S.E. 727, 729 (1893). Commonwealth v. Cary, 271 Va. 87, 623 S.E.2d 906 (2006).

The actions taken by Ms. Scott of refusing to drop the knife and the scissors coupled with her raising the weapons with the blades pointed at the officers and then charging at them, presented the Deputies with an immediate and real threat to their safety, as well as the safety of the bystanders and other Deputies. Her actions as described by law enforcement as well as civilian witnesses clearly were of such a character as to afford a reasonable ground in the Deputy's mind that there was a design to do bodily harm or kill and that there was an imminent danger of her carrying such design into immediate action.

Loudoun County Sheriff's Office

Case Number

2013-008601

Drawn By

Date Drawn

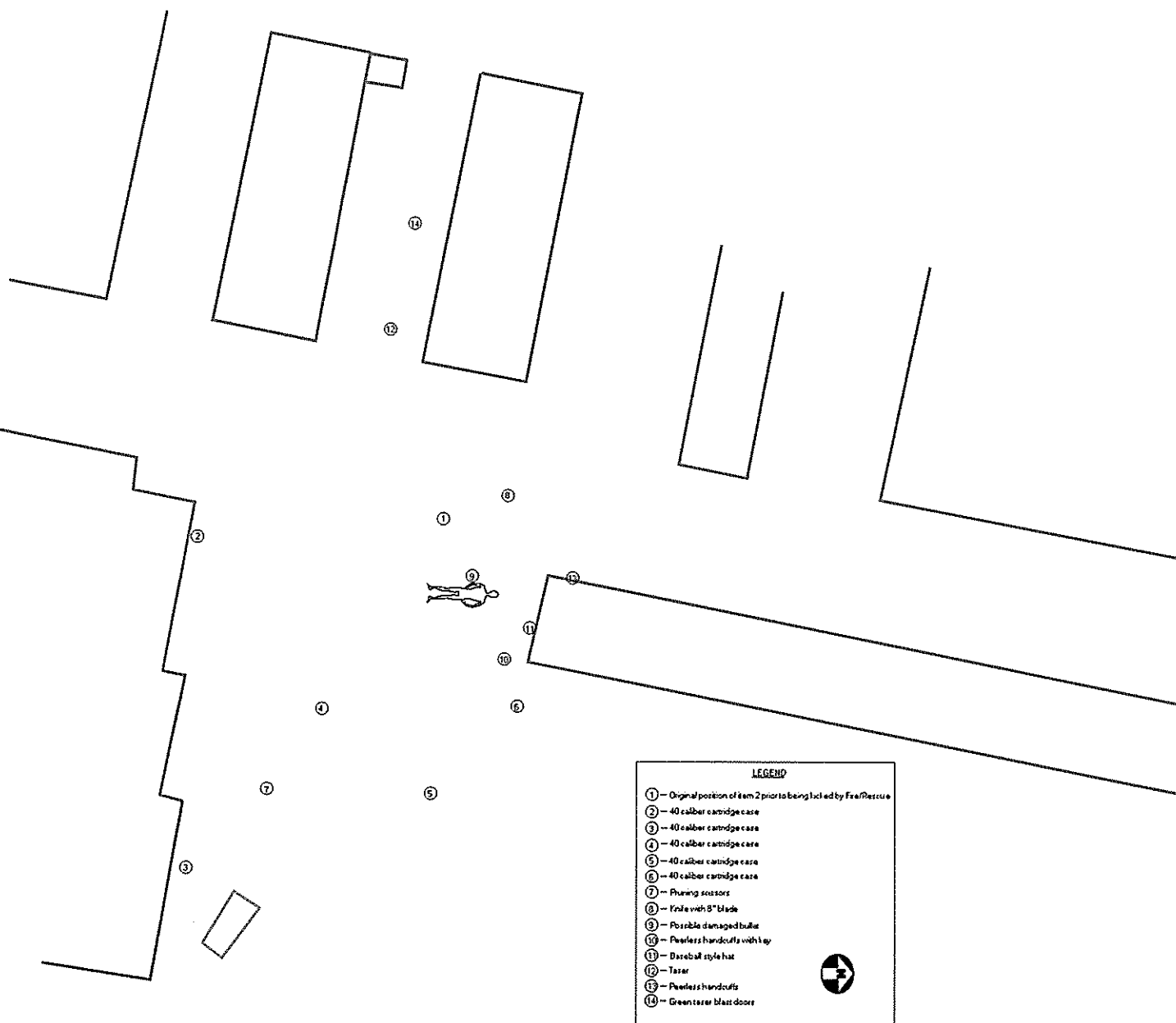
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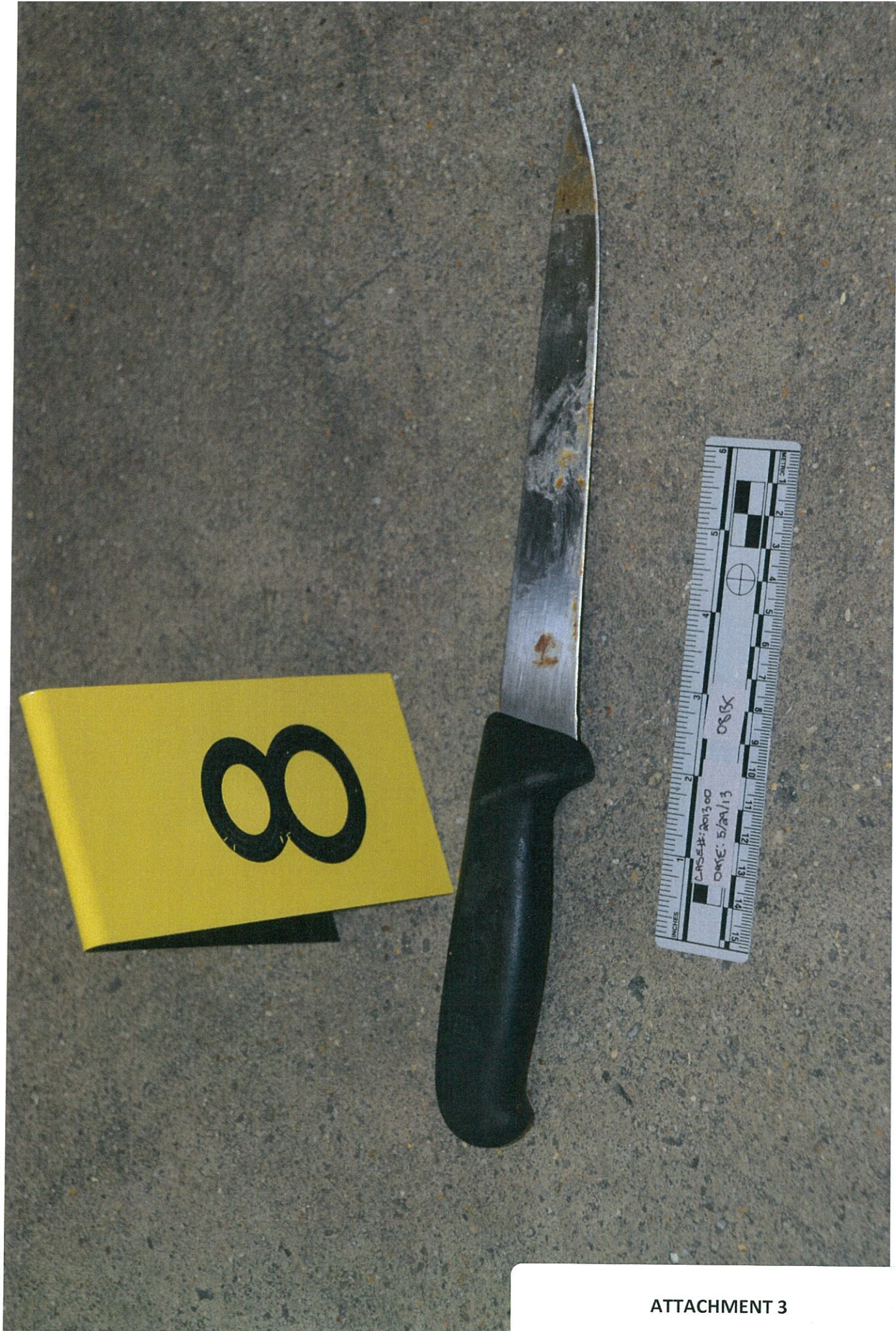
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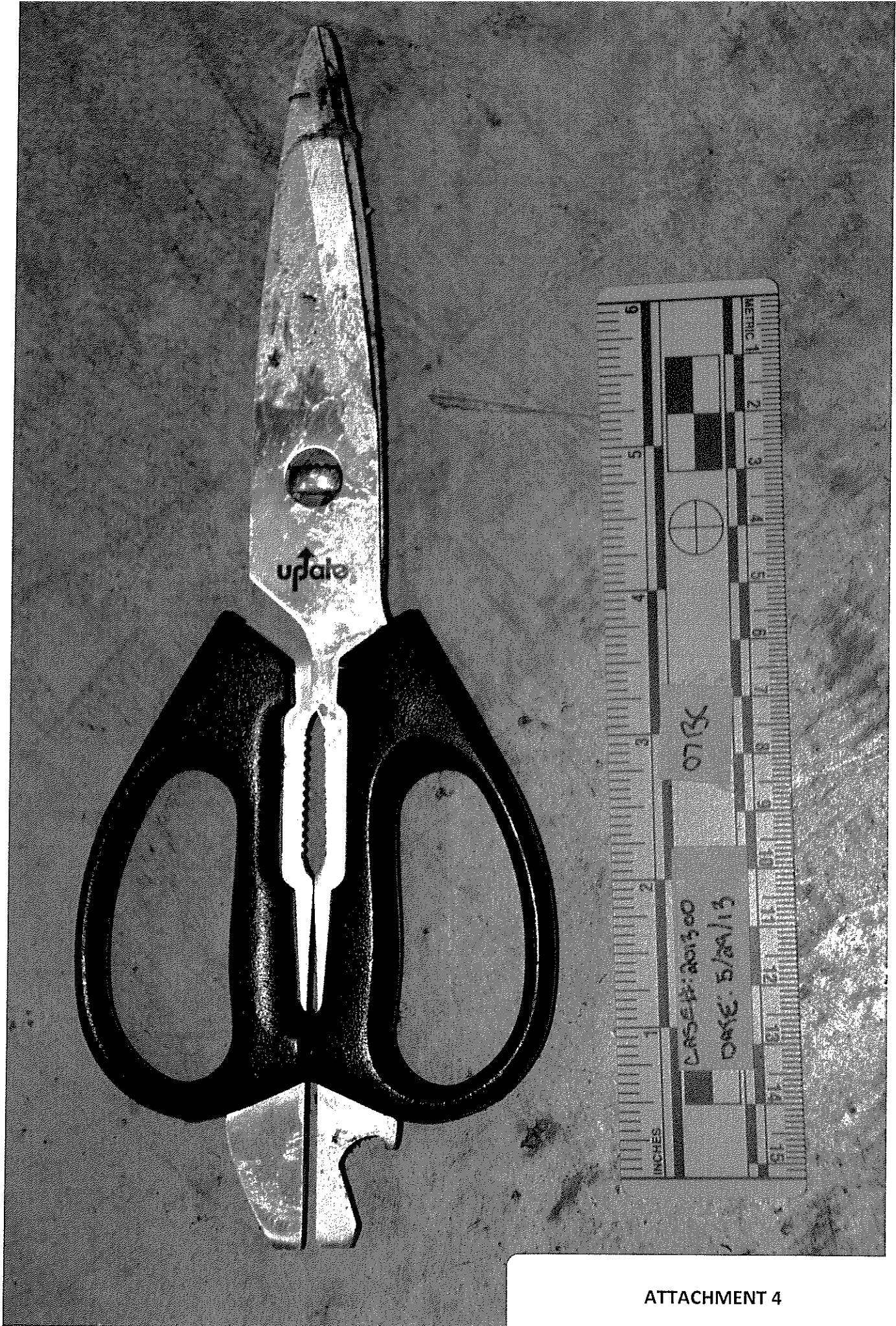




ATTACHMENT 2



ATTACHMENT 3



ATTACHMENT 4

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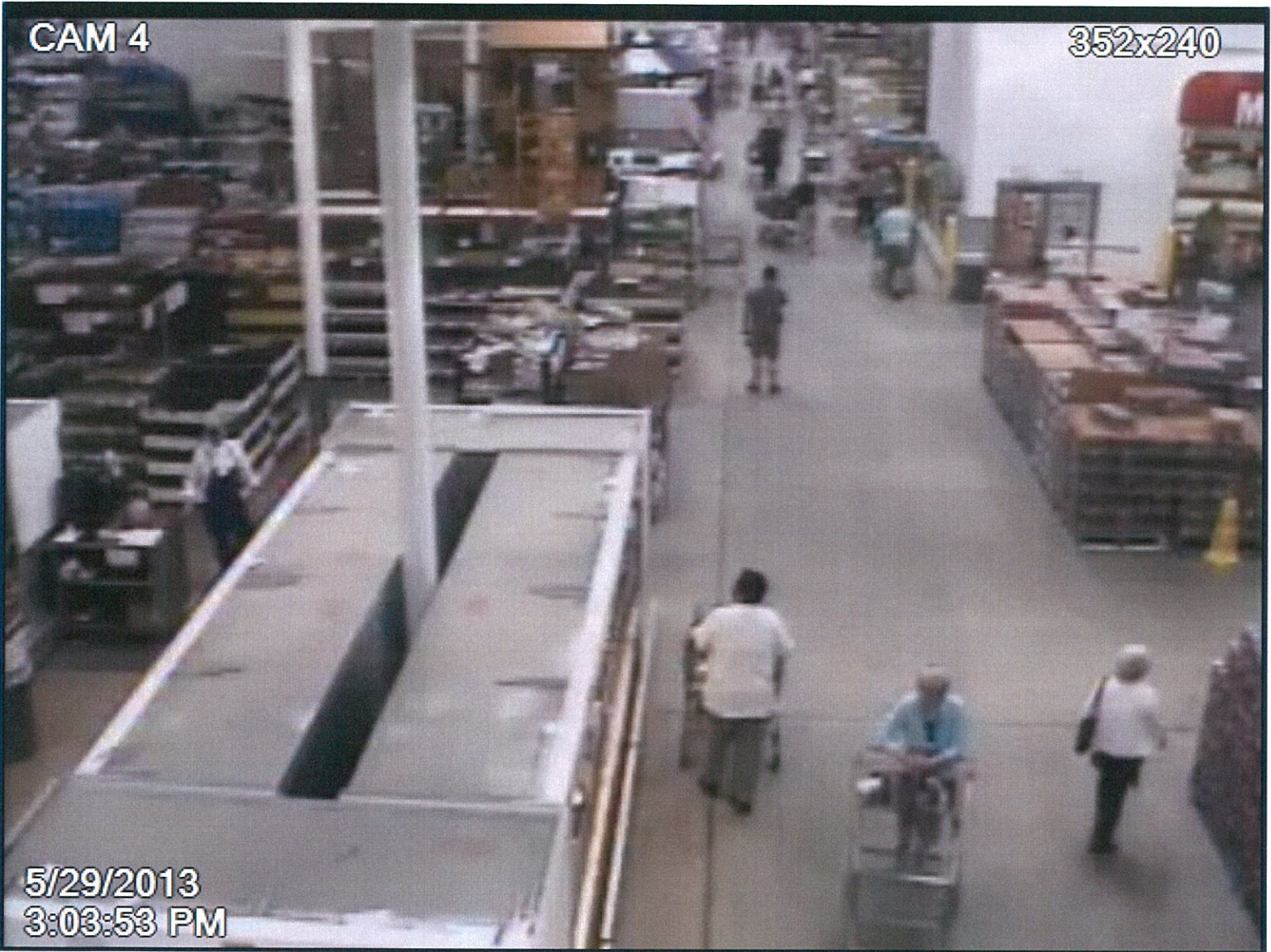
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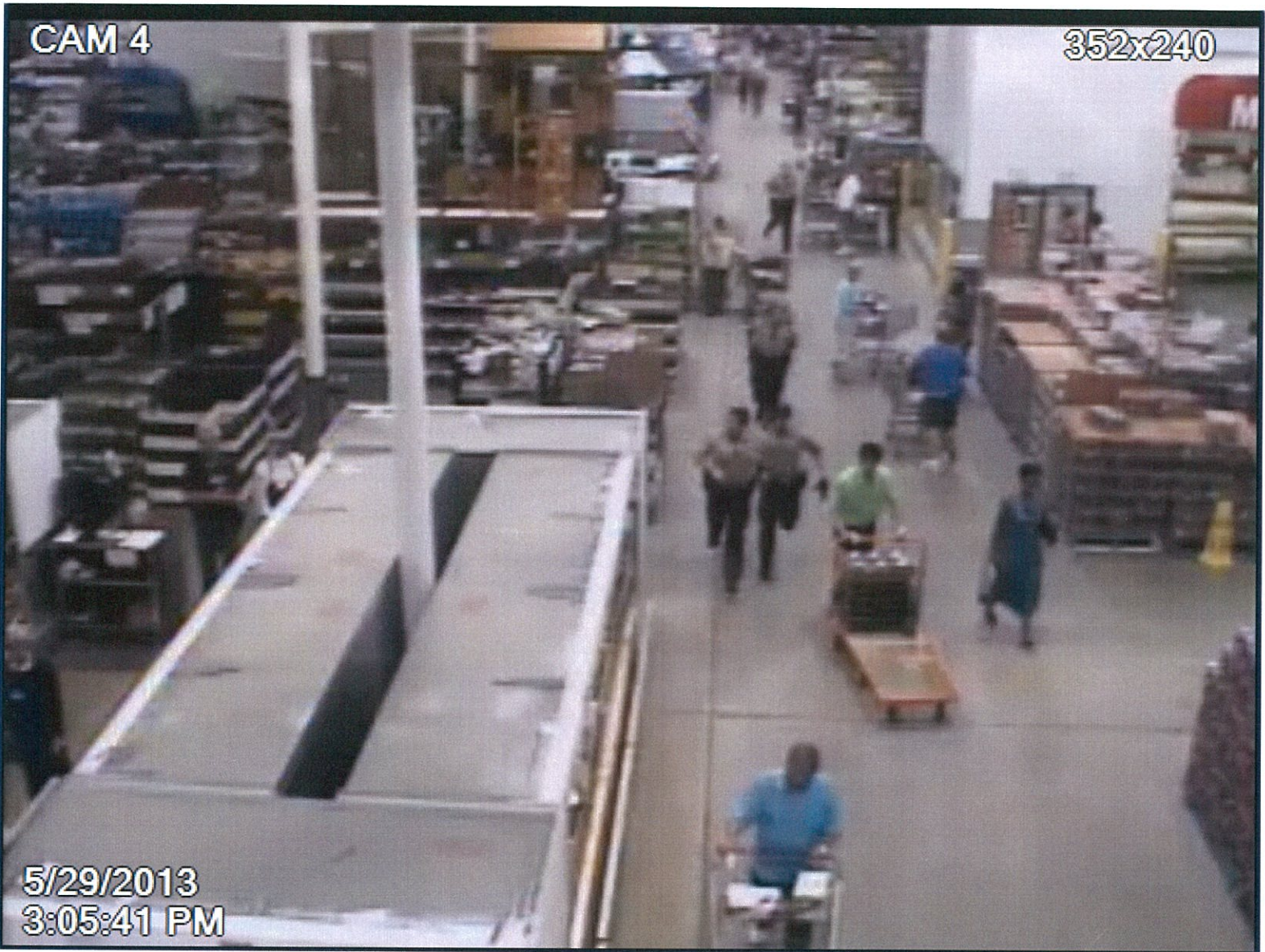


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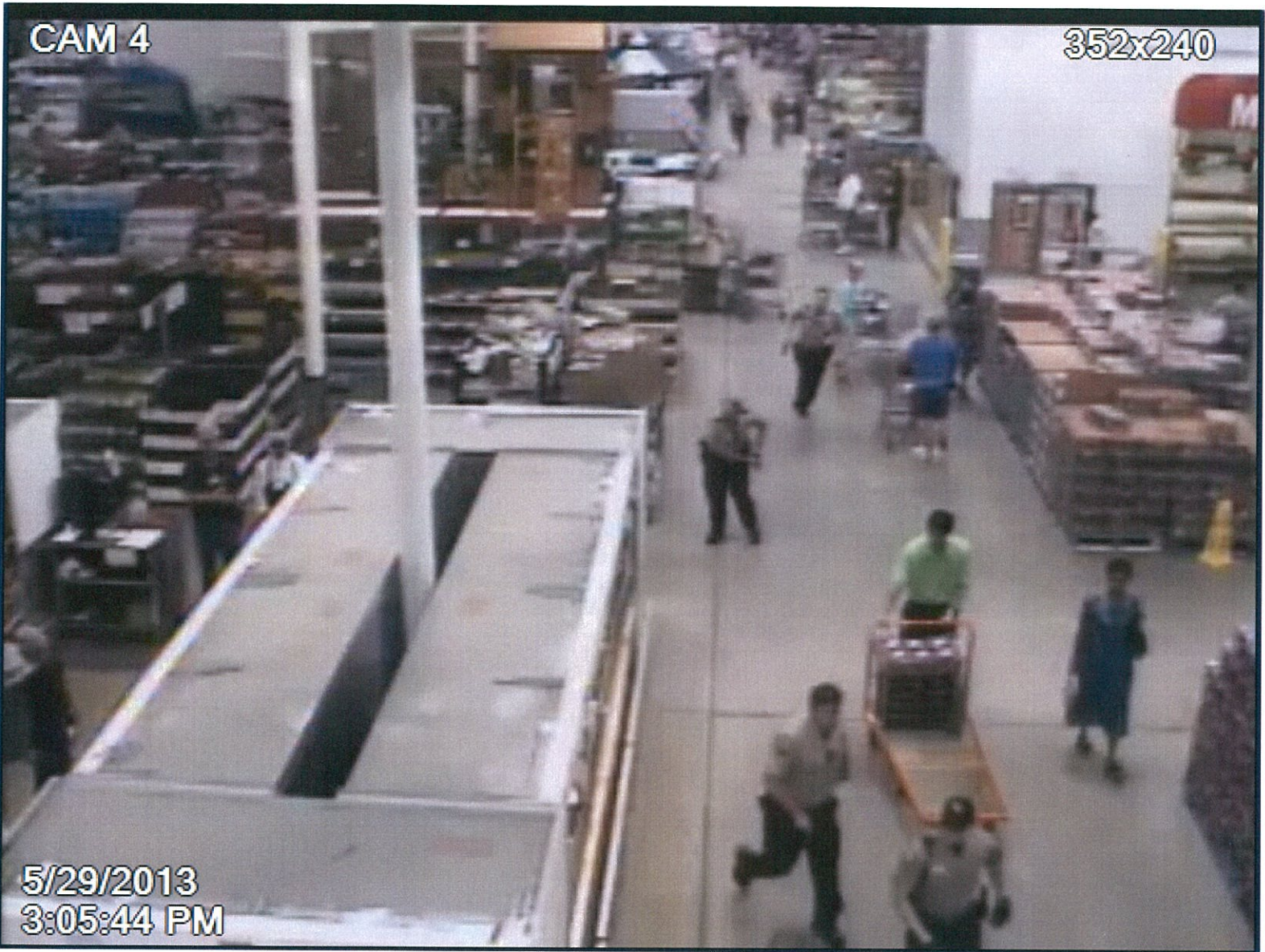
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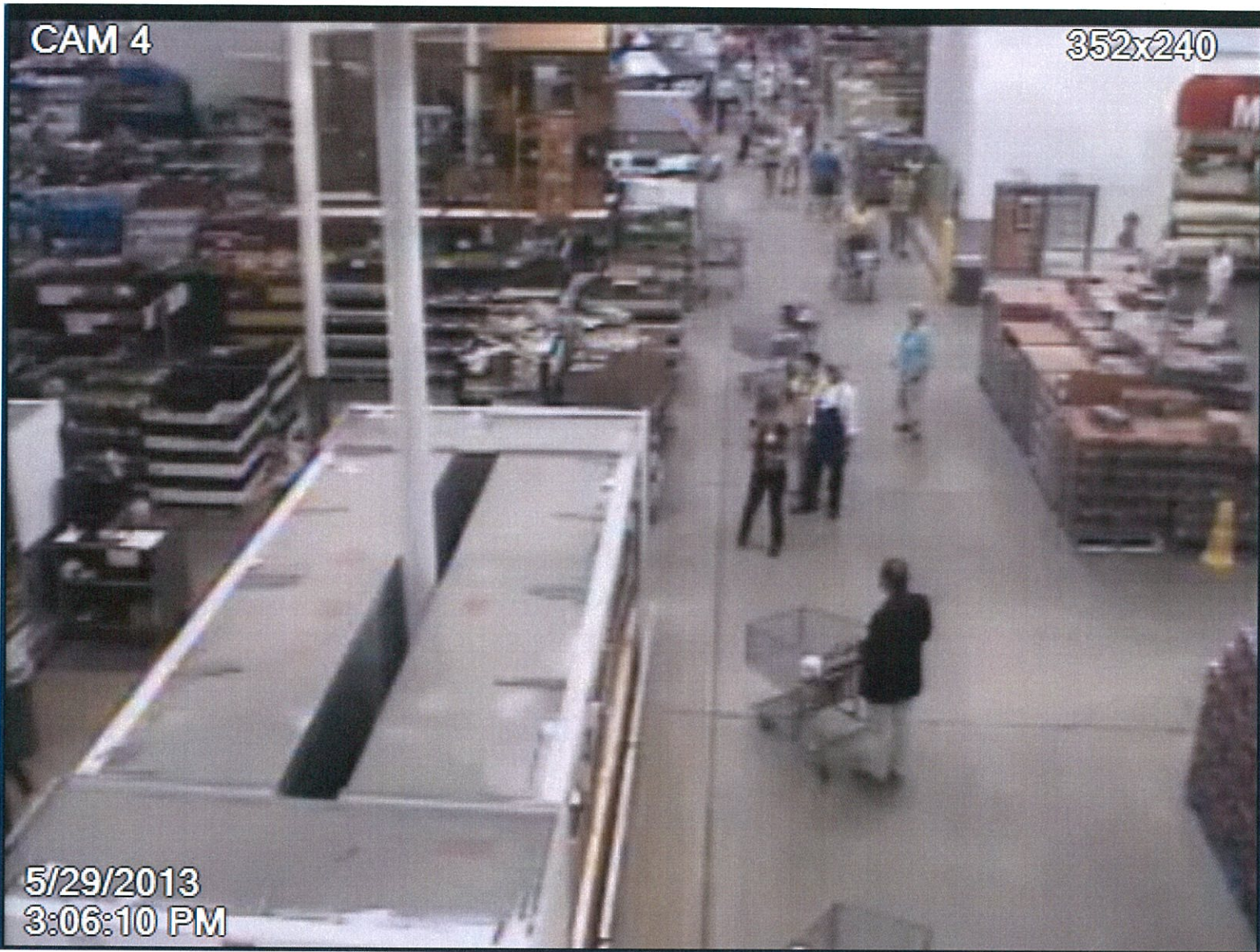


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